

§ 305.63 Standards for determining substantial compliance with IV-D requirements.

For the purposes of a determination under § 305.61(a)(1)(iii) of this part, in order to be found to be in substantial compliance with one or more of the IV-D requirements as a result of an audit conducted under § 305.60 of this part, a State must meet the standards set forth below for each specific IV-D State plan requirement or requirements being audited and contained in parts 302 and 303 of this chapter, measured as follows:

(a) The State must meet the requirements under the following areas:

(1) Statewide operations, § 302.10 of this chapter;

(2) Reports and maintenance of records, § 302.15(a) of this chapter;

(3) Separation of cash handling and accounting functions, § 302.20 of this chapter; and

(4) Notice of collection of assigned support, § 302.54 of this chapter.

(b) The State must provide services required under the following areas in at least 90 percent of the cases reviewed:

(1) Establishment of cases, § 303.2(a) of this chapter; and

(2) Case closure criteria, § 303.11 of this chapter.

(c) The State must provide services required under the following areas in at least 75 percent of the cases reviewed:

(1) Collection and distribution of support payments, including: collection and distribution of support payments by the IV-D agency under § 302.32(b) of this chapter; distribution of support collections under § 302.51 of this chapter; and distribution of support collected in title IV-E foster care maintenance cases under § 302.52 of this chapter;

(2) Establishment of paternity and support orders, including: Establishment of a case under § 303.2(b) of this chapter; services to individuals not receiving TANF or title IV-E foster care assistance, under § 302.33(a)(1) through (4) of this chapter; provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (c)(8) through (10) of this chapter; location of non-custodial parents under

§ 303.3 of this chapter; establishment of paternity under § 303.5(a) and (f) of this chapter; guidelines for setting child support awards under § 302.56 of this chapter; and establishment of support obligations under § 303.4(d), (e) and (f) of this chapter;

(3) Enforcement of support obligations, including, in all appropriate cases: establishment of a case under § 303.2(b) of this chapter; services to individuals not receiving TANF or title IV-E foster care assistance, under § 302.33(a)(1) through (4) of this chapter; provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (c)(8) through (10) of this chapter; location of non-custodial parents under § 303.3 of this chapter; enforcement of support obligations under § 303.6 of this chapter and State laws enacted under section 466 of the Act, including submitting once a year all appropriate cases in accordance with § 303.6(c)(3) of this chapter to State and Federal income tax refund offset; and wage withholding under § 303.100 of this chapter. In cases in which wage withholding cannot be implemented or is not available and the non-custodial parent has been located, States must use or attempt to use at least one enforcement technique available under State law in addition to Federal and State tax refund offset, in accordance with State laws and procedures and applicable State guidelines developed under § 302.70(b) of this chapter;

(4) Review and adjustment of child support orders, including: Establishment of a case under § 303.2(b) of this chapter; services to individuals not receiving TANF or title IV-E foster care assistance, under § 302.33(a)(1) through (4) of this chapter; provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (c)(8) through (10) of this chapter; location of non-custodial parents under § 303.3 of this chapter; guidelines for setting child support awards under § 302.56 of this chapter; and review and adjustment of support obligations under § 303.8 of this chapter; and

(5) Medical support, including: establishment of a case under § 303.2(b) of this chapter; services to individuals not receiving TANF or title IV-E foster care assistance, under § 302.33(a)(1)

through (4) of this chapter; provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (c)(8) through (10) of this chapter; location of non-custodial parents under § 303.3 of this chapter; securing medical support information under § 303.30 of this chapter; and securing and enforcing medical support obligations under § 303.31 of this chapter; and

(6) Disbursement of support payments in accordance with the timeframes in section 454B of the Act and § 302.32 of this chapter.

(d) With respect to the 75 percent standard in paragraph (b) of this section:

(1) Notwithstanding timeframes for establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(4) through (6), (c)(8) and (9) of this chapter; location and support order establishment under § 303.3(b)(3) and (5), and § 303.4(d) of this chapter, if a support order needs to be established in a case and an order is established during the audit period in accordance with the State's guidelines for setting child support awards, the State will be considered to have taken appropriate action in that case for audit purposes.

(2) Notwithstanding timeframes for establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(4) through (6), and (c)(8) and (9) of this chapter; and location and review and adjustment of support orders contained in § 303.3(b)(3) and (5), and § 303.8 of this chapter, if a particular case has been reviewed and meets the conditions for adjustment under State laws and procedures and § 303.8 of this chapter, and the order is adjusted, or a determination is made, as a result of a review, during the audit period, that an adjustment is not needed, in accordance with the State's guidelines for setting child support awards, the State will be considered to have taken appropriate action in that case for audit purposes.

(3) Notwithstanding timeframes for establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV-D cases under § 303.7 (a), (b) and (c) (4) through (6), and (c)(8) and (9) of this chapter; and location and

wage withholding in § 303.3(b) (3) and (5), and § 303.100 of this chapter, if wage withholding is appropriate in a particular case and wage withholding is implemented and wages are withheld during the audit period, the State will be considered to have taken appropriate action in that case for audit purposes.

(4) Notwithstanding timeframes for establishment of cases in § 303.2(b) of this chapter; provision of services in interstate IV-D cases under § 303.7 (a), (b) and (c) (4) through (6), and (c)(8) and (9) of this chapter; and location and enforcement of support obligations in § 303.3(b) (3) and (5), and § 303.6 of this chapter, if wage withholding is not appropriate in a particular case, and the State uses at least one enforcement technique available under State law, in addition to Federal and State income tax refund offset, which results in a collection received during the audit period, the State will be considered to have taken appropriate action in the case for audit purposes.

(e) The State must meet the requirements for expedited processes under § 303.101(b)(2)(i) and (iii), and (e) of this chapter.

§ 305.64 Audit procedures and State comments.

(a) Prior to the start of the actual audit, Federal auditors will hold an audit entrance conference with the IV-D agency. At that conference, the auditors will explain how the audit will be performed and make any necessary arrangements.

(b) At the conclusion of audit fieldwork, Federal auditors will afford the State IV-D agency an opportunity for an audit exit conference at which time preliminary audit findings will be discussed and the IV-D agency may present any additional matter it believes should be considered in the audit findings.

(c) After the exit conference, Federal auditors will prepare and send to the IV-D agency a copy of their interim report on the results of the audit. Within a specified timeframe from the date the report was sent by certified mail, the IV-D agency may submit written comments on any part of the report which the IV-D agency believes is in